

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ZF MERITOR LLC and MERITOR
TRANSMISSION CORPORATION

Plaintiffs,

v.

EATON CORPORATION,

Defendant.

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C.A. No. 06-623-SLR

**DEFENDANT EATON CORPORATION'S
MOTION TO DISMISS PLAINTIFFS' COMPLAINT**

Defendant Eaton Corporation ("Eaton"), a company headquartered and incorporated in Cleveland, Ohio, by and through its undersigned counsel, moves this Court, pursuant to Fed. R. Civ. P. 12(b)(6), for an Order dismissing Plaintiffs' allegations for failure to state claims against Eaton upon which relief can be granted. Eaton moves for dismissal because (1) the Complaint does not allege that Eaton caused Plaintiffs antitrust injury, and (2) Plaintiffs' allegations related to 2000 and 2001 contracts (and even earlier conduct during the 1990s) are time barred by the four-year statute of limitations that applies to antitrust actions.


In support of its motion, Eaton relies on the attached Memorandum. Eaton requests that the Court hear oral argument on this motion.

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November 22, 2006



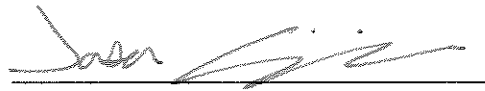
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CERTIFICATE OF SERVICE

I, Jason A. Cincilla, hereby certify that on the 22nd day of November, 2006 Defendant Eaton Corporation's Motion To Dismiss Plaintiff's Complaint was served by electronic filing or e-mail on the following counsel of record:

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ORDER

This matter is before the Court on the Motion of Defendant Eaton Corporation (“Eaton”) To Dismiss Plaintiffs’ Complaint. In consideration of Eaton’s motion, the Court being otherwise fully advised, it is hereby:

ORDERED that Eaton's Motion to Dismiss shall be and is hereby **GRANTED**.

SO ORDERED this day of _____, 2006.

Hon. Sue L. Robinson, Chief Judge